

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd day of April 1998

BEFORE

THE HON'BLE MR.JUSTICE V.K.SINGHAL

WRIT PETITION NO.23031/1991

Between:

M/s.Sumanth Fine Chemicals
(P)Ltd., 814,
Rudraiah Complex, P.B.Road,
Davangere
rep. by its Managing Director
Sri S.S.Hotanahalli,
major. .. Petitioner
(Sri Angadi, Advocate)

And:-

1. The Comm1.Tax Officer
I Circle,
Davanagere. ..Respondent

Writ Petition is filed praying to quash
the notice dated 21-8-1991 issued under Sec.25-A
of the KST Act, 1957 by the respondent in relation
to the period 1989-90 (Annexure-E).

This writ petition coming on for hearing today,
the Court made the following:

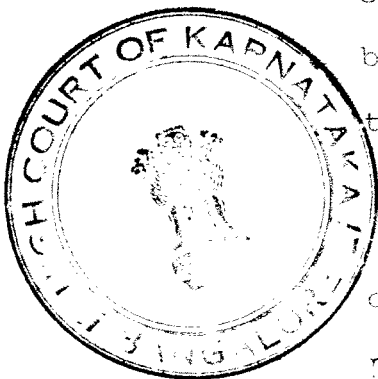
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ORDER

By this writ petition, notice dated 21-8-1991 under Section 25-A of the Karnataka Sales Tax Act, 1957 in respect of the year 1989-90 has been assailed. Explanation 4 has been added ~~by~~ notification dated 16-10-81 by notification dated 15-6-1989.

2. It is contended that the aforesaid notification is arbitrary and unreasonable restriction and violative of Art.301 of the Constitution of India. By the said explanation, the benefit is not available if the assessee has collected the amounts by way of tax. The tax has been collected from the consumers/dealers etc., and if the amount has been collected then the petitioner cannot take the double benefit of exemption as well as retaining of the amount. It is in view of this that the explanation has been amended. The restriction which has been imposed by the notification cannot be said to be unreasonable or violative of Art.301 of the Constitution of India.



3. The petitioner would be free to challenge the order which has been subsequently passed by the respondent in accordance with law. If the appeal already not preferred, then it will be preferred within a period of four weeks from today. The objection regarding limitation would ^{not} be raised.

Sd/-
JUDGE